

CONFLICT PREVENTION AND RESOLUTION SERVICES CONTRACT

CONTRACT # 68HERH19D0033
TASK ORDER # TO31-A
SOW SECTION # Sections 3a, 3d, 3e, 3f, 3i, 3j, 3k and 3l
TECHNICAL DIRECTIVE # TD4
Florida CWA 404 Assumption - Facilitation and Public Comment Support

DATE: 11/20/2020

TO: Laura Bachle, AICP, ERG Task Order Manager
FROM: Mike Long, TOCOR
CC: Terry Fenton, CLCOR
Terry Simpson, Alternate CLCOR
Erin Ridder, CO
Kelly Laycock and Rosemary Calli, TD Technical Leads

RE: Authorization to Access ERG Facilitation Support

SITE ID: N/A

In accordance with the above-referenced Task Order, Eastern Research Group (ERG) is authorized to initiate ADR-related activities with respect to the project known as Florida CWA 404 Assumption - Facilitation and Public Comment Support. ERG is authorized to spend up to the total funding ceiling noted below on these activities and be reimbursed for direct expenses. The nature of this project is described below.

Program Background

The Clean Water Act (CWA) established the Section 404 permit program, under which the U.S. Army Corps of Engineers (Corps) may issue permits for the discharge of dredged or fill material into "waters of the United States" as identified in the CWA. Section 404(g)(1) of the CWA provides states and tribes the option of submitting to the United States Environmental Protection Agency (EPA) a request to assume administration of the Clean Water Act Section 404 permit program in certain waters within state or tribal jurisdiction. The Governor of the State of Florida has submitted a complete request for State program approval and proposes to operate the State permit program for regulated discharges of dredged or fill material into waters within the jurisdiction of the State in accordance with the CWA.

EPA's procedure for program review includes a maximum 120-day statutory review period. EPA will publish notice of the State's application in the Federal Register, provide for a public comment period of not less than 45 days; and provide for public hearings not less than 30 days after such notice is published in the Federal Register. This Technical Direction is to provide for support of the public hearings and public comment.

Administrator Priorities

- | | |
|---|--|
| <input type="checkbox"/> Reduce number of non-attainment areas | <input type="checkbox"/> Complete timely TSCA pre-manufacture notice final determinations |
| <input type="checkbox"/> Increase water infrastructure project compliance | <input type="checkbox"/> Increase amount of non-EPA resources leveraged by projects receiving EPA infrastructure investments |
| <input type="checkbox"/> Ready Superfund and/or Brownfields sites for anticipated use | <input checked="" type="checkbox"/> Accelerate permitting-related decisions |
| <input type="checkbox"/> Complete TSCA risk evaluations | <input type="checkbox"/> Climate adaptation |
| <input type="checkbox"/> Complete TSCA risk management actions | |

Technical Directive Form

Revised September 28, 2019

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☐ Environmental Justice
☒ Interagency Dispute/Discussion

☐ Tribal Issues
☐ Other: Please specify

Project Period of Performance

Start date: When issued

End date: 9/30/2021

Project Budget

Ex. 5 Deliberative Process (DP)

Project Description

EPA sponsoring office or region: Office of Water

Other Information: N/A

Project Location: Washington, DC

Anticipated meeting dates: Periodic conference calls

Meeting locations: TBD

Project Description

Task 1: Facilitation Support for Public Hearings

The public notice and comment clock will begin shortly after the Federal Register Notice (FRN) is published, with the public hearings held at least 30 days after the FRN. There will be two (2) public hearing of three (3) hours each. The public hearings will be held in consecutive weeks.

Both meetings will be virtual and will be conducted using GoToWebinar or a similar platform. In addition, three meetings will be held between EPA and Tribes. These meetings don't need facilitation but may need meeting notes to be placed in the public comments docket.

The following support for the two virtual public meetings is needed:

- **Pre-hearing logistical support.** Support EPA in organizing two virtual public hearings using the GoToWebinar platform (which can accommodate up to 500 participants per meeting) or similar platform. The facilitator and webinar lead will work with EPA to discuss and determine all specifications for the hearings, including run-of show for each hearing, specific dates/times for each hearing, and number of commenters expected.
- **Communications support.** If possible, prior to publication, the facilitator will review the portion of EPA's draft FRN text that describes the public hearings to ensure it is consistent and accurate with respect to the registration and webinar information. Or, as appropriate, the provider can prepare meeting information text for EPA to insert into its FRN notice.
- **Agenda and run of show.** The facilitator will develop an agenda and "run of show" for the hearings. The facilitator will work with EPA to determine whether and when the key EPA personnel on the webinar (e.g., the presiding official and others designated to listen to the public comment) will be on-screen via video during introductions, how the facilitator will work with the EPA official "listeners" to handle any questions of clarification and how the provider will handle timekeeping. Following these conversations, the facilitator will provide an agenda and run of show to EPA for review, comment, and finalization.
- **Registration.** Support public registration for the hearings. Provide a webpage on which participants can sign up for the hearings, specify which hearing(s) they wish to attend, and whether they wish to listen only or to make a comment. If making a comment, they can express a preference for time. The provider will monitor and provide information to EPA about the number of people registered for each meeting, including commenters and listen-only participants. The provider will confirm each participant's registration, provide a unique link to each participant to join the webinar(s) they have signed up for, and let everyone signed up to comment know their approximate comment time. The provider will provide a list of registrants to EPA at any time upon request.
- **Practice session.** The provider will conduct a brief practice session with the key EPA people before the event.
- **Support during the hearings.** Provide a meeting facilitator and 1-2 support personnel (depending on volume of participants) to run the webinar, troubleshoot any issues, and monitor whether members of the public who are next on the list to speak are actually on the webinar at the time.
- **Hearing audio recording and transcript.** The provider will record all three hearings, produce a transcription of each hearing, and will carefully review each transcription to ensure that it is accurate with respect to what was actually said on the hearing at every moment.

Task 2: Public Comment Support

Provide support for public comments received in regard to the Federal Register Notice of the State of Florida's application request to assume administration of the Clean Water Act Section 404 permit program for the State. Support will include (but is not limited to) the following activities:

- Collect comments from public hearings and tribal consultations;
- Import electronic comments from the Federal Docket Management System (FDMS) and ensure files are machine readable;
- Classify comment letters into "bins" to identify form letters, form letter variants, and substantive comment letters, as well as duplicate submittals, comment transmittal cover sheets and other letters that do not require coding;
- Read public comments and identify missing metadata (e.g., commenter type);
- Categorize excerpts or snippets of submissions according to a list of topics provided by EPA;
- Enter comment excerpts (or snippets) into a Comment Categorization and Analysis Tool;
- Output comment excerpts organized by topic as a Microsoft Word document, or other MS Office format as directed; and
- Maintain the comment system throughout the duration of the comment activity.

The provider will import the electronic comment files from FDMS and collected from public hearings and tribal consultations into a web-based comment system as PDF files (or another file format, as determined through discussion with EPA). As directed by EPA, will parse the comment letters into individual comment topics based on the comment issue outline provided by EPA. The provider will grant access to the comment system as requested by EPA (i.e., there is no restriction to EPA staff or other technical support users obtaining access). The system should allow multiple users access via the web and users can parse comments, view specific comments submitted, or view parsed comments by issue.

The system should include tracking features which will summarize the status of comments received, reviewed, and coded and the status of responses and their review. The provider should prepare to download and review approximately 300 public comment with the assumption that this will correspond to approximately 600 individual comment files from FDMS because each comment "letter" (identified by document control number in FDMS) downloaded can contain multiple files (e.g., cover pages, attachments). For the purpose of preparing the cost estimate, refer to the count of individual comment files. The provider should anticipate that of the estimated 600 comment files to be classified, approximately 250 comment letters will require review, coding, and upload to the web-based comment response system, dependent on whether EPA requires out of scope comments or form letter variants to be coded.

Provide EPA with periodic reports regarding the status of the comment support activities. The reporting will include summary statistics for the number of comment letters received, imported, and parsed, and the current number of comment excerpts by coded topic.

Use of a web-based comment system for this support task. Assumes that approximately 30 substantial comments (i.e., comment letters longer than 20 pages), 100 medium comments (i.e., comment letters approximately 3-20 pages in length), and 120 non-substantial comments (i.e., comment letters one to two pages in length) will be submitted. For the purposes of preparing the cost estimate, assume that each type of comment letter (i.e., substantial, medium, non-substantial) will take the following amount of time to classify, review, and code/parse:

- Substantial comments – **Ex. 4 CBI**
- Medium comments – **Ex. 4 CBI**
- Non-substantial comments – **Ex. 4 CBI**

Project Deliverables

1. Progress Reports

At the request of the project Technical Directive Lead and/or TOCOR, the contractor shall provide progress reports on the project status and progress throughout the project performance period.

2. Project Work Products

1. For Task 1's public hearings support, the Contractor shall provide the following:

- a. List of participants;
- b. Public hearings agenda and Run of Show; and,
- c. Public hearings transcriptions.

2. Final Organized Comment Document

The Contractor shall prepare a final MS Word organized comment document following completion of the comment coding. This document will present the excerpts by comment topic, along with commenter identification information.

Proposed Schedule

- Kick-off meeting with EPA Region 4 via conference call within 10 working days of service provider selection to discuss needs, schedule and key milestones. (Aug. 2020)
- After the conference kick-off call, EPA Region 4 technical leads will conduct conference calls with the Contractor to develop agenda items, etc. (Aug. 2020)
- Development of draft agenda and materials to share with EPA Region 4 technical leads. (Aug. 2020)
- Final draft of agenda and all materials. All other materials may be electronically provided. (Aug. 2020)
- Before and during the virtual public hearings, the Contractor shall provide facilitation listed in task 1. (TBD)
- The Contractor shall provide public hearings comment support services listed in task 2. (TBD). The Contractor shall provide comment support services to support to EPA's expedited delivery schedule.

Qualifications of Provider

The Contractor shall select a service provider for this project in consultation with the Task Order Contracting Officer Representative (TOCOR) and TD Leads. The service provider shall have the following qualifications:

- Knowledge of, and experience with Clean Water Act Section 404, including, the permitting process, and USACE and EPA roles in program implementation.
- Experience gathering input from federal agency staff and facilitating meetings with federal and non-federal technical, policy specialists and general public.
- Ability to translate regulatory and technical language into materials that can be understood by multiple types of stakeholders including permit applicants and federal agency staff.
- Knowledge of conflict resolution techniques and experience as a mediator resolving complex environmental and water policy issues.

EPA Contacts

General:

The TOCOR or LCCOR on this contract is the contact for official technical direction. The Technical Directive Lead(s) are NOT authorized to issue technical direction to the contractor or service provider – he/she is a contact person only to clarify information, background, insight, and coordination on the topic or project. ONLY the TOCOR or the LCCOR can issue technical direction. Only the Contracting Officer can change the terms or costs of this Task Order.

Project Technical Contact(s):

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Anticipated Tasks Needed for this Project

- ☒ Consultation with EPA staff to identify appropriate opportunities for community outreach, community engagement, conflict prevention and resolution support;
- ☐ Identification of service provider;
- ☐ Conducting a situation, dispute or conflict assessment;
- ☒ Convening appropriate parties;
- ☒ Facilitation of sessions or meetings;
- ☐ Mediation of sessions or meetings;
- ☐ Design of impasse breaking processes or interventions;
- ☐ Contact with parties during process, before and after meetings;
- ☐ Recording or summarizing meetings or project progress or next steps;
- ☐ Logistical support (meeting rooms, equipment, invitations, registration, etc.);
- ☒ Development of fact sheets, outreach or presentation materials, case studies, analyses;
- ☐ Coaching/capacity building of parties in conflict management, meeting management, dispute resolution or consensus building skills;
- ☒ Providing necessary technical or analytic support, analyses, summaries, review;
- ☒ Providing communications assistance or support (communication strategies, web support, media support);
- ☐ Training in negotiation, conflict resolution, meeting management, public engagement, project specific procedures;
- ☒ Drafting of agreements, recommendations or reports; or

☐Other: Please specify – examples include translation or interpretation, court reporter recording, transcripts, etc.

Supplemental Information

CPRC Staff Lead: Terry Fenton

Primary Type of Services Requested: Technical/Logistical

Secondary Type of Services Requested: Facilitation

Agreement Seeking: No

Primary Subject Matter Area: Clean Water Act 404 Wetlands

Secondary Subject Matter Area: Not Applicable

Public Engagement Goal: Information Exchange

Forum: Not Applicable

Policy Context: Permit Issuance